

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 89182**

This is to certify that: RICHARD F SMITH
PO BOX 8
REXBURG, ID 83440-0008

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
22-7075	WR/DECREED	7/5/1973	4.940 cfs	1953.0 af	558.0	1114.0	GROUND WATER

Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
22-2184	WR/DECREED	10/3/1960	3.550 cfs	1085.0 af	310.0	1086.0	GROUND WATER
22-2230	WR/DECREED	9/18/1963	1.680 cfs	518.0 af	148.0	1086.0	GROUND WATER
22-7507	WR/DECREED	6/28/1985	3.140 cfs	549.5 af		1086.0	GROUND WATER
22-11147	WR/DECREED	4/1/1962	0.540 cfs	168.0 af	48.0	1086.0	GROUND WATER
22-11149	WR/DECREED	4/15/1981	0.570 cfs	175.0 af	50.0	1086.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
22-7075	YES	YES	YES	YES	YES	YES

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
22-7075	22-14612	0.250 cfs	50.8 af	N/A	N/A	22-7075	4.690 cfs	1855.0 af	530.0	1086.0
COMBINED TOTALS		0.250 cfs	50.8 af	N/A	N/A		N/A	N/A	N/A	N/A

**Support Data
In File # 22-7075**

Transfer No. 89182

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 89182

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 19th day of March, 2025.


Water Resources Program Manager



Support Data
In File # 22-7075

Transfer No. 89182

WATER RIGHT NO. 22-7075
As Modified by Transfer No. 89182

In accordance with the approval of Transfer No. 89182, Water Right No. 22-7075 is now described as follows:

Right Holder: RICHARD F SMITH
 PO BOX 8
 REXBURG, ID 83440-0008

Priority Date: 7/5/1973

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	05/01	to 11/01	4,690 cfs	1855.0 af
			4,690 cfs	1855.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWSESW Sec 28 Twp 06N Rge 40E MADISON County
 GROUND WATER SENESW Sec 33 Twp 06N Rge 40E MADISON County
 GROUND WATER SWNESW Sec 33 Twp 06N Rge 40E MADISON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
06N	40E	28												40.0	40.0	40.0	40.0	25.0	40.0	31.0	31.0	287.0
06N	40E	29																		36.0	19.0	55.0
06N	40E	32		40.0	39.0									31.0						40.0		150.0
06N	40E	33	23.0	35.0	37.0	37.0	40.0	40.0	37.0	40.0	33.0	39.0	39.0	37.0	40.0	40.0	38.0	39.0				594.0

Right Acre Limit: 530.0
 POU Total Acres: 1086.0

CONDITIONS OF APPROVAL

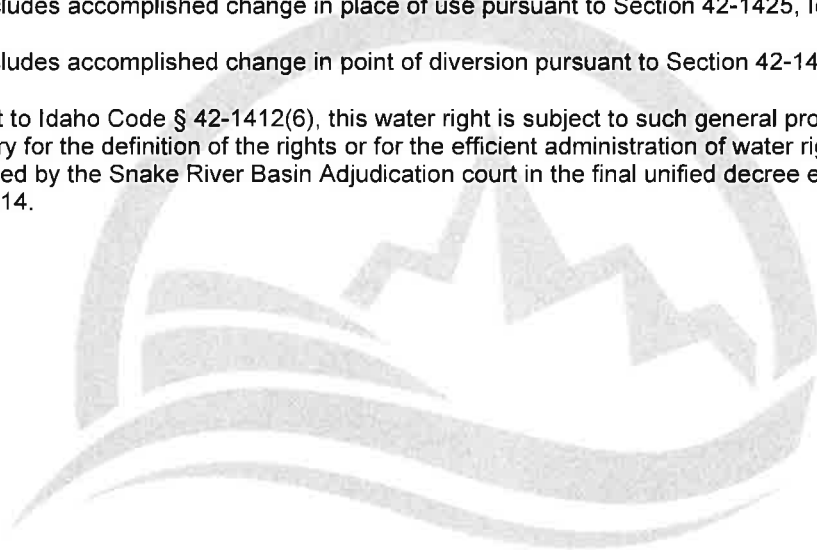
1. This right is limited to the irrigation of 530 acres within the place of use described above in a single irrigation season.
2. The rights listed below are limited to the irrigation of a combined total of 1086 acres in a single irrigation season. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.
3. The rights listed below are limited to a total combined diversion rate of 9.92 cfs and to a total combined annual diversion volume of 3801 AF. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.
4. The rights listed below are limited to a total combined diversion rate of 10.60 cfs. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.

Transfer No. 89182

WATER RIGHT NO. 22-7075
As Modified by Transfer No. 89182

CONDITIONS OF APPROVAL

5. The use of water for irrigation under this right may begin as early as April 1 provided other elements of the right are not exceeded. The use of water before May 1 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
6. The following rights are diverted through points of diversion described above: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.
7. Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
8. Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
9. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 22-14612
As Modified by Transfer No. 89182

In accordance with the approval of Transfer No. 89182, Water Right No. 22-14612 is now described as follows:

Right Holder: RICHARD F SMITH
 PO BOX 8
 REXBURG, ID 83440-0008

Priority Date: 7/5/1973

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
MUNICIPAL	1/1	to 12/31	0.250 cfs	50.8 af
			0.250 cfs	50.8 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENW	Sec 30 Twp 06N Rge 40E	MADISON County
GROUND WATER	NESE	Sec 30 Twp 06N Rge 40E	MADISON County
GROUND WATER	NESE	Sec 31 Twp 06N Rge 40E	MADISON County
GROUND WATER	NESE	Sec 31 Twp 06N Rge 40E	MADISON County
GROUND WATER	SESE	Sec 26 Twp 06N Rge 39E	MADISON County
GROUND WATER	SESE	Sec 26 Twp 06N Rge 39E	MADISON County
GROUND WATER	SWSW	Sec 17 Twp 06N Rge 40E	MADISON County
GROUND WATER	SWSW	Sec 17 Twp 06N Rge 40E	MADISON County
GROUND WATER	SWSW	Sec 20 Twp 06N Rge 40E	MADISON County
GROUND WATER	SWSW	Sec 29 Twp 06N Rge 40E	MADISON County
GROUND WATER	SWSW	Sec 29 Twp 06N Rge 40E	MADISON County

CONDITIONS OF APPROVAL

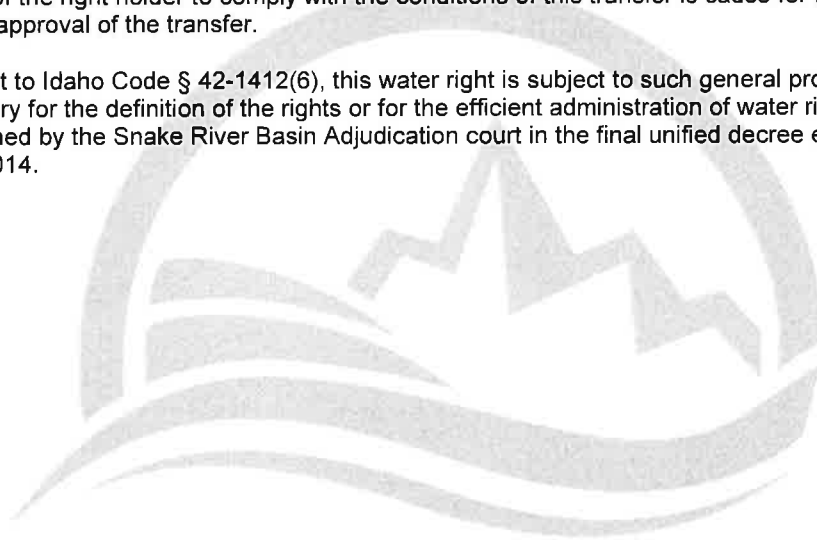
1. Place of use is within the service area of the City of Rexburg municipal water supply system as provided for under Idaho Law.
2. A map generally depicting the service area for this water right at the time of this approval is attached to this document for illustrative purposes.
3. Prior to diversion and use of water under Transfer approval 89182, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion, in accordance with Department specifications.
4. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
5. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 100.

Transfer No. 89182

WATER RIGHT NO. 22-14612
As Modified by Transfer No. 89182

CONDITIONS OF APPROVAL

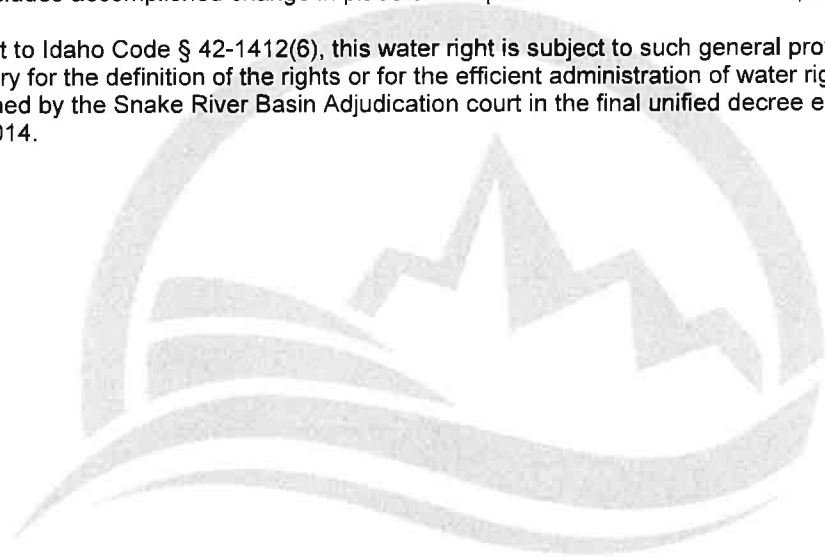
6. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
7. This right does not grant any right-of-way or easement across the land of another.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 22-2184
As Modified by Transfer No. 89182

CONDITIONS OF APPROVAL

5. Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
6. Right No. 22-11149 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
7. The following rights are diverted through points of diversion described above: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.
8. Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
9. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 22-2230
As Modified by Transfer No. 89182

In accordance with the approval of Transfer No. 89182, Water Right No. 22-2230 is now described as follows:

Right Holder: RICHARD F SMITH
 PO BOX 8
 REXBURG, ID 83440-0008

Priority Date: 9/18/1963

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	1.680 cfs	518.0 af
			1.680 cfs	518.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWSESW Sec 28 Twp 06N Rge 40E MADISON County
 GROUND WATER SENESW Sec 33 Twp 06N Rge 40E MADISON County
 GROUND WATER SWNESW Sec 33 Twp 06N Rge 40E MADISON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	28									40.0	40.0	40.0	40.0	25.0	40.0	31.0	31.0	287.0
06N	40E	29															36.0	19.0	55.0
06N	40E	32		40.0	39.0						31.0						40.0		150.0
06N	40E	33	23.0	35.0	37.0	37.0	40.0	40.0	37.0	40.0	33.0	39.0	39.0	37.0	40.0	40.0	38.0	39.0	594.0

Right Acre Limit: 148.0
 POU Total Acres: 1086.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 148 acres within the place of use described above in a single irrigation season.
2. The rights listed below are limited to a total combined diversion rate of 9.92 cfs and to a total combined annual diversion volume of 3801 AF. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.
3. The rights listed below are limited to the irrigation of a combined total of 1086 acres in a single irrigation season. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.
4. The rights listed below are limited to a total combined diversion rate of 10.60 cfs. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.

Transfer No. 89182

WATER RIGHT NO. 22-2230
As Modified by Transfer No. 89182

CONDITIONS OF APPROVAL

5. Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
6. The following rights are diverted through points of diversion described above: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.
7. Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
8. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 22-7507
As Modified by Transfer No. 89182

In accordance with the approval of Transfer No. 89182, Water Right No. 22-7507 is now described as follows:

Right Holder: RICHARD F SMITH
 PO BOX 8
 REXBURG, ID 83440-0008

Priority Date: 6/28/1985

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	3.140 cfs	549.5 af
			3.140 cfs	549.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWSESW Sec 28 Twp 06N Rge 40E MADISON County
 GROUND WATER SENESW Sec 33 Twp 06N Rge 40E MADISON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	28									40.0	40.0	40.0	40.0	25.0	40.0	31.0	31.0	287.0
06N	40E	29															36.0	19.0	55.0
06N	40E	32		40.0	39.0						31.0					40.0			150.0
06N	40E	33	23.0	35.0	37.0	37.0	40.0	40.0	37.0	40.0	33.0	39.0	39.0	37.0	40.0	40.0	38.0	39.0	594.0

POU Total Acres: 1086.0

CONDITIONS OF APPROVAL

1. The rights listed below are limited to a total combined diversion rate of 10.60 cfs. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
3. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
4. This right does not grant any right-of-way or easement across the land of another.
5. The following rights are diverted through points of diversion described above: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.

Transfer No. 89182

WATER RIGHT NO. 22-7507
As Modified by Transfer No. 89182

CONDITIONS OF APPROVAL

6. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 22-11147
As Modified by Transfer No. 89182

In accordance with the approval of Transfer No. 89182, Water Right No. 22-11147 is now described as follows:

Right Holder: RICHARD F SMITH
 PO BOX 8
 REXBURG, ID 83440-0008

Priority Date: 4/1/1962

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	0.540 cfs 0.540 cfs	168.0 af 168.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWSESW	Sec 28 Twp 06N Rge 40E	MADISON County
GROUND WATER	SENESEW	Sec 33 Twp 06N Rge 40E	MADISON County
GROUND WATER	SWNESW	Sec 33 Twp 06N Rge 40E	MADISON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	28									40.0	40.0	40.0	40.0	25.0	40.0	31.0	31.0	287.0
06N	40E	29															36.0	19.0	55.0
06N	40E	32		40.0	39.0						31.0					40.0			150.0
06N	40E	33	23.0	35.0	37.0	37.0	40.0	40.0	37.0	40.0	33.0	39.0	39.0	37.0	40.0	40.0	38.0	39.0	594.0

Right Acre Limit: 48.0
 POU Total Acres: 1086.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 48 acres within the place of use described above in a single irrigation season.
2. The rights listed below are limited to the irrigation of a combined total of 1086 acres in a single irrigation season. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.
3. The rights listed below are limited to a total combined diversion rate of 10.60 cfs. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.
4. The rights listed below are limited to a total combined diversion rate of 9.92 cfs and to a total combined annual diversion volume of 3801 AF. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.

Transfer No. 89182

WATER RIGHT NO. 22-11147
As Modified by Transfer No. 89182

CONDITIONS OF APPROVAL

5. The following rights are diverted through points of diversion described above: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.
6. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 22-11149
As Modified by Transfer No. 89182

In accordance with the approval of Transfer No. 89182, Water Right No. 22-11149 is now described as follows:

Right Holder: RICHARD F SMITH
 PO BOX 8
 REXBURG, ID 83440-0008

Priority Date: 4/15/1981

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	0.570 cfs	175.0 af
			0.570 cfs	175.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWSESW Sec 28 Twp 06N Rge 40E MADISON County
 GROUND WATER SENESW Sec 33 Twp 06N Rge 40E MADISON County
 GROUND WATER SWNESW Sec 33 Twp 06N Rge 40E MADISON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
06N	40E	28																		287.0
06N	40E	29																		55.0
06N	40E	32		40.0	39.0															150.0
06N	40E	33	23.0	35.0	37.0	37.0	40.0	40.0	37.0	40.0	33.0	39.0	39.0	37.0	40.0	40.0	38.0	39.0		594.0

Right Acre Limit: 50.0
 POU Total Acres: 1086.0

CONDITIONS OF APPROVAL

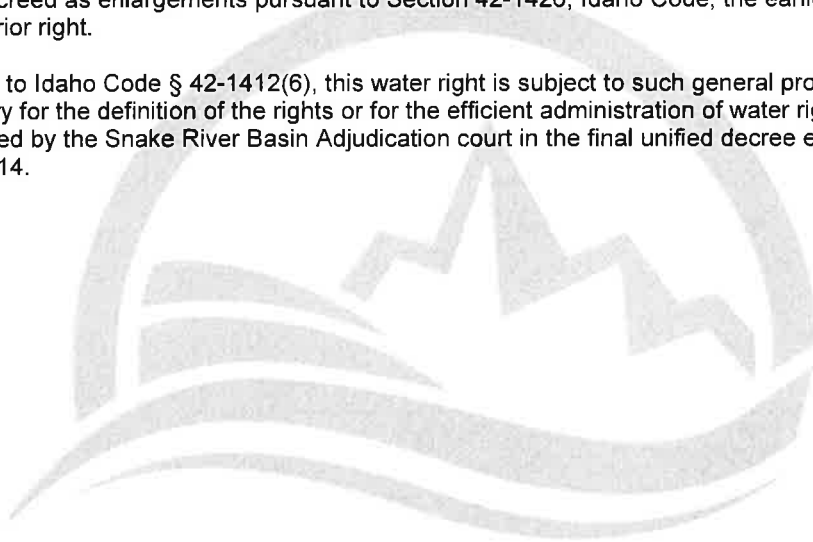
1. This right is for an enlargement of 50 acres within the place of use described for this right.
2. The rights listed below are limited to the irrigation of a combined total of 1086 acres in a single irrigation season. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.
3. The rights listed below are limited to a total combined diversion rate of 9.92 cfs and to a total combined annual diversion volume of 3801 AF. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-11147, 22-11149.
4. The rights listed below are limited to a total combined diversion rate of 10.60 cfs. Combined Right Nos.: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.

Transfer No. 89182

WATER RIGHT NO. 22-11149
As Modified by Transfer No. 89182

CONDITIONS OF APPROVAL

5. This right is based upon an enlargement of Right No. 22-2184 pursuant to Section 42-1426, Idaho Code.
6. The following rights are diverted through points of diversion described above: 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149.
7. This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.
8. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

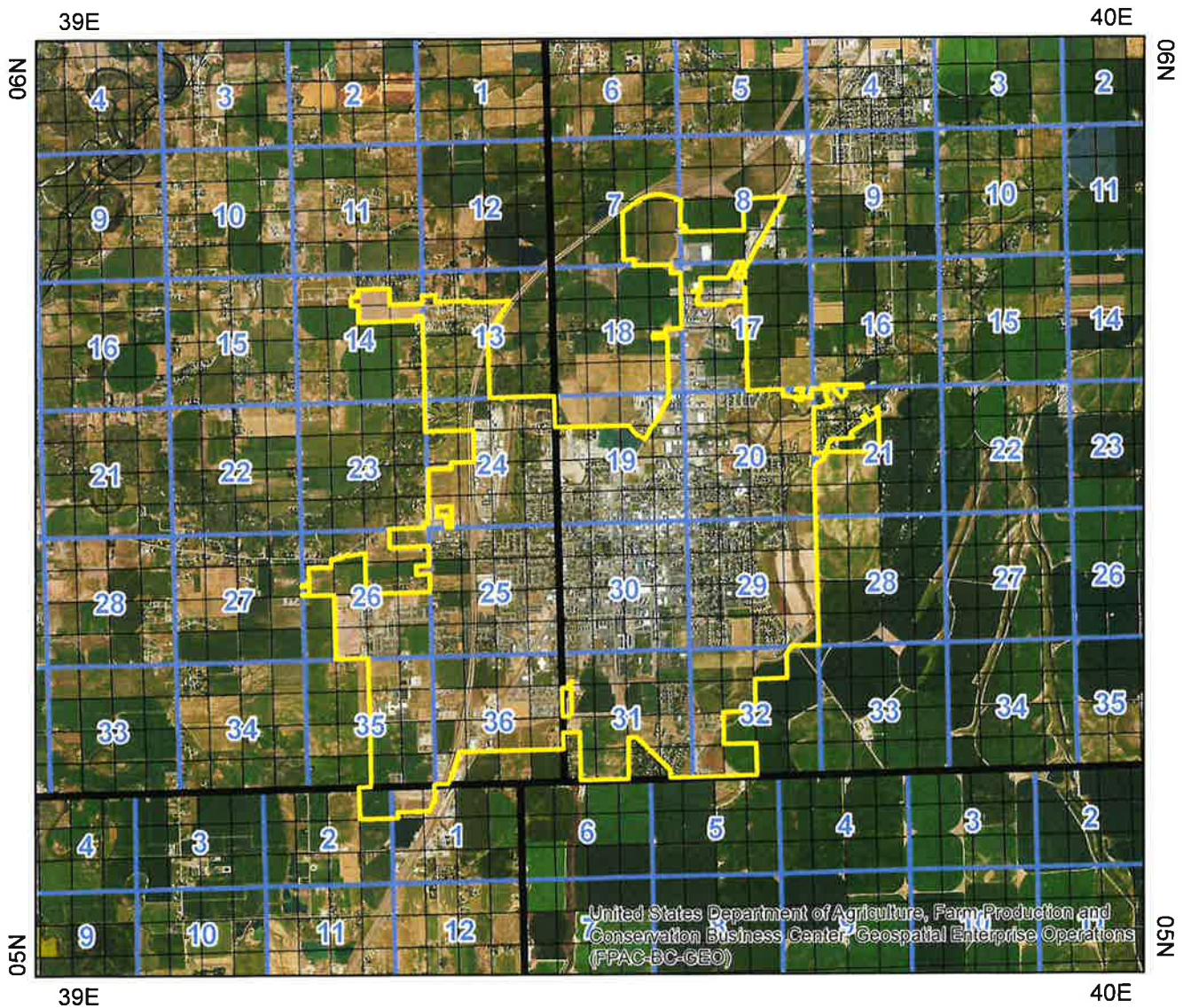


State of Idaho
Department of Water Resources






Water Right

22-14612

Water Service Area Boundary for City of Rexburg



United States Department of Agriculture, Farm Production and Conservation Business Center, Geospatial Enterprise Operations (FPAC-BC-GEO)

-  Water Service Area Boundary
-  State Outline
-  Townships
-  PLS Sections
-  Quarter Quarters





March 19, 2025

RICHARD F SMITH
PO BOX 8
REXBURG ID 83440-0008

Re: Transfer No: 89182
Water Right No(s): 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149

Transfer Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 525-7161.

Sincerely,



Christina Henman
Administrative Assistant

Enclosure

CC:

ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2025 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 89182

Water Right No(s): 22-2184, 22-2230, 22-7075, 22-7507, 22-11147, 22-11149

**RICHARD F SMITH
PO BOX 8
REXBURG ID 83440-0008**

**ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552**



**Christina Henman
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.